

## STATUS OF AMENDMENTS

In this response no amendment is being filed.

## ARGUMENTS

This is in response to the examiner's office action mailed to us on 09/12/2005. This response replies point by point to the new arguments for rejection that the examiner has advanced:

### Objections to the Drawings

The examiner objects to the drawings on the grounds that the transverse, primary and secondary strands are not shown to be in the same plane. Claim 1 makes use of the wording "substantially in the same plane" the word "substantially" bridging the gap between perfect geometrical concepts such as infinitely thin one dimensional lines and two dimensional planes, and real world physicalities represented by metal strands in the approximate form of cylinders, which are welded together in a lath to form the approximation of a plane. *It is clearly understood as one reads the specification and the drawings that we define "substantially on the same plane"* as meaning that the real world cylinders formed by the strands are in the same physical plane because they intersect or are tangential or touch the same plane. In the drawing the strands are welded together such that the cylinders they form are all tangential to the same plane. The **intent** of the invention and the **meaning** of "substantially on the same plane" are clearly stated in the specification and the drawings.

Our configuration is markedly different from JAENSON's configuration in which the strands occupy two distinctly separated planes, as shall be discussed below, under the argument for the rejection 35USC102. Thus, the drawings do not need to be modified.

### **Objection to Specification**

Our response to the examiner's objections for the specification is the same as the one given for the drawings. The word "substantially" bridges the gap between perfect geometrical objects such as lines and planes, and real world objects such as metal strands and lath. The specification and the drawings clearly **define** the meaning of "substantially in the same plane."

### **Claim Rejection 35USC 102**

Claims 1, 7, 12, and 13 have been rejected under USC 102(b) as being anticipated by Patent #5,540,023 to JAENSON. The examiner's description of JAENSON patent located at the bottom paragraph of the examiner's response on page 3 and top paragraph of page 4 does not match the text of JAENSON's patent as she implied. It matches word for word the text of Claim 1 in our application.

JAENSON specifically says in his patent Column 6 lines 46-48:

"As shown in FIG 3, the wires 56 comprising the second horizontal course are welded to the vertical wires 48 at the base of the furring crimps 52."

Since the base of the furring crimps is separated from the plane of the vertical wires by the height of the furrs, JAENSON's configuration clearly forces the horizontal wires and the vertical wires to be in **two separate and distinct physical planes**. This is confirmed by every one of his figures FIG. 1, FIG. 2a, FIG. 2b, FIG. 3, FIG. 4a, FIG. 4b. This geometry creates a truss structure that decreases the flexibility of the lath. This decrease in flexibility is clearly documented by experimental data that shall be presented below.

### **Claim Rejection 35 USC 103**

The examiner's rejection of Claims 2-6, 8-10, 11, 14-17 and 18 discussing fasteners, rolling, strand cross section, angle of inclination of the sides of the spacing furrs,

dimension of the spacing furrs, and method of fabrication are all moot since the obviousness rejection of claims 1 and 18 is unjustified.

This obviousness rejection can be invalidated by:

- 1) **Experimental data** that shows without a doubt that JAENSON's configuration is significantly less flexible than our configuration
- 2) **Economic advantages** of our configuration over JAENSON's.

**1) Experimental data:**

The examiner considers both JAENSON's lath and ours to be equally flexible and therefore to have the same utility regarding their flexibility. She does not consider that flexibility varies in degree and has not been convinced by the theoretical argument that a structure formed by strands arranged "substantially in the same plane" as in our application, can be significantly more flexible than strands arranged in two distinct and separate planes as in the truss formed by JAENSON's lath. Thus, while it is true to say that JAENSON's lath is "flexible," it is untrue to say that it can be rolled into economically sized rolls.

In response to her argument we have collected experimental data that shows that JAENSON's laths are significantly less flexible than our lath when these laths are made from strands of equal diameter and configured with the same strand density.

**Test:**

Laths built according to our design have been rolled without any problem into rolls with minimum diameter of 12 inches. These rolls have been successfully shipped to, and used by, customers.

When laths built according to JAENSON's configuration were rolled into 12 inch rolls, they became irreparably damaged and rendered unusable because of their lack of flexibility. The shape of their furrs becomes obliterated and useless. We found out that rolls consisting of JAENSON's lath can only be rolled without being damaged if the rolls have a minimum diameter of 72". Such large rolls are uneconomical to ship and very cumbersome - in fact impractical to handle and install on the construction job site.

Another fact that we discovered through experimentation is that once a JAENSON lath is rolled in a tight curvature, it retains this curvature and becomes extremely difficult to unroll. In contrast, our lath can be tightly rolled and unrolled without any permanent or deleterious effect.

For these reasons, The Davis Wire Corporation located in Irwindale, California, which has purchased the right to produce the Jaenson mesh, is producing it and shipping it in sheets, not in rolls. Proof of this fact can be obtained by contacting Davis Wire Corp. at [www.daviswire.com](http://www.daviswire.com). We are producing and shipping our product in rolls. Our web site is at [www.structawire.com](http://www.structawire.com).

## **2) Economical Advantages**

As the examiner admits JAENSON does not mention or claim that the lath can be rolled, only that it is flexible. In fact, nowhere in JAENSON's patent is the word "roll" mentioned once. Given the huge economic and competitive advantage that rolling a lath represents, surely he would have mentioned that fact if he believed that it could be tightly rolled.

This increase in flexibility represents a huge commercial benefit since with our invention, laths can be more compactly rolled and therefore more compactly shipped.

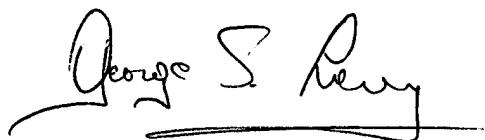
The compactness of our design allows us to ship 784 rolls per in a 53 foot van, each roll having a 12 inch diameter. If the JAENSON design were to be rolled without being

damaged, the rolls would have to have a diameter not less than 72 inches, which implies that only 16 rolls could be shipped in a 53 foot van. Assuming a truck shipment over a distance of 1000 miles, the cost of shipping is reduced from approximately \$91.60 per roll for JAENSON's design to \$1.87 per roll for our design.

Another economical advantage is that handling of the roll is significantly simpler for our design, at the point of manufacturing, as well as at the client's location. We estimate that labor cost can be reduced by 95 %.

These costs are also the reason JAESON's laths are shipped in sheets and not in rolls like our invention.

Should the examiner need additional proofs for the above facts, we would be glad to provide them to her.

A handwritten signature in black ink, appearing to read "George S. Levy". The signature is fluid and cursive, with a horizontal line underneath it.

George Levy

Patent Agent 53211

November 12, 2005